REMARKS/ARGUMENTS

As indicated in the Office Action, clams 1-8 and 10-21 were rejected on various grounds under 35 U.S.C. § 101, 102(e), and 103. No claim amendment is being proposed, and accordingly, claims 1-8 and 10-21 remain pending. Applicants respectfully traverse the various grounds of rejections for at least the reasons set forth below.

I. Rejections under 35 U.S.C. § 101

Claims 1 and 16 stand rejected under 35 U.S.C. § 101 for allegedly not falling into one of the statutory categories of invention. Specifically, it is alleged that independent claims 1 and 16 both recite a series of steps or acts to be performed without positively reciting a statutory category of invention. The Applicants respectfully disagree with the Office Action's categorization of claims 1 and 16 as non-statutory subject matter under 35 U.S.C. § 101.

"A claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, **or** (2) it transforms a particular article into a different state or thing."[1] In *Bilski*, the court explained that the transformation of raw data representing physical and tangible objects "into a particular visual depiction of a physical object on a display was sufficient to render" a claim patent-eligible.[2] The court emphasized that claims are "not required to involve any transformation of the underlying physical object that the data represent" given there was electronic transformation of the

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[1] *In re Bilski*, 545 F.3d 943, 954 (Fed. Cir. 2008).
[2] *Id.* at 963.

data itself into a visual depiction.[3] Indeed, the court stated that "so long as the claimed process is limited to a practical application of a fundamental principle to transform specific data, and the claim is limited to a visual depiction that represents specific physical objects or substances, there is no danger that the scope of the claim would wholly pre-empt all uses of the principle."[4] In view of *Bilski*, Applicants respectfully submit that independent claims 1 and 16 meet at least the second prong of the *Bilski* test.

Independent claim 1 recites a "method of using a program … for ***converting an input image*** having a first format to ***an output image*** **having a second stereoscopic format**," comprising "receiving the input image," and "***converting*** each pixel of the input image to a corresponding pixel for an output image in accord with a support table matrix…." Similar elements are also recited in independent claim 16. It is to be appreciated that data – the input image– is transformed into an output stereoscopic image by the method recited in claims 1 and 16. Accordingly, such a transformation of data into intermediate stereoscopic perspective representation renders claims 1 and 16 patent-eligible under the *Bilski* test. At least for the above reasons, Applicants respectfully assert that independent claims 1 and 16 are directed to patentable subject matter and request that the 35 U.S.C. § 101 rejections be withdrawn.

II. Rejections under 35 U.S.C. § 102(e)

Independent claims 1 and 16 stand rejected under 35 U.S.C. § 102 for being anticipated by U.S. Patent Pub. No. 2002/0122585 to Swift et al. ("*Swift '585*"). Claim 1

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[3] *Id.*
[4] *Bilski*, 545 F.3d at 963.

recites a method of producing an output image including, in part, steps of "converting each pixel of the input image to a corresponding pixel for an output image in accord with a ***support table matrix*** setting forth a predefined relationship between the first format and the second format ***to establish validity*** of the converting of the input image to the output image for a desired display method," and "formatting the output image ***based upon the validity***," (emphasis added). Similar elements are also included in independent claim 16. As disclosed at page 7, line 25 to page 8, line 8 of Applicants' Specification, the possibility of converting and/or displaying certain types of combinations of input images having a first format and output images having a second format can be determined and prevented. Specifically, a support matrix table may be configured to contain information to establish whether the combination of converting the first format to the second format for a desired display method is possible to produce, and whether the combination is supported by a viewer to display the output images in the desired display method.

It is alleged in the Office Action that *Swift '585* "inherently discloses" using a map to set forth a predefined relationship between the first and second stereo formats to establish validity of the conversion of the images. The Office Action seems to further allege that the use of a support stable matrix to set forth the predefined relationship is "inherently disclosed" in *Swift '585*. Applicants respectfully submit that under Federal Circuit case law as summarized in *MPEP* §2112(IV), the teaching of *Swift '585* does not support the professed inherency allegations made in the Office Action, and accordingly, *Swift '585* does not teach or suggest each and every element required by claims 1 and 16.

A. Express Teaching of Swift '585

As discussed in Applicants' Response of March 13, 2009, *Swift '585* does not expressly teach at least: 1) using a support table matrix for establishing validity of converting an input image to an output image; and 2) creating/displaying the output image based upon the validity. *Swift '585* expressly discloses (paragraph [0028]), for example, a mechanism to increase or decrease the size at which media is displayed while preserving the stereo. In addition, *Swift '585* explicitly discloses various embodiments for image scaling performed based upon identification of a storage method of the images, wherein the display size is increased or decreased based upon the storage method. However, Applicants respectfully assert that *Swift '585* fails to teach or suggest converting each pixel of the input image to a corresponding pixel for an output image in accord with a "**support table matrix** setting forth a predefined relationship between the first format and the second format **to establish validity** of the converting of the input image to the output image for a desired display method," as required by amended independent claims 1 and 16. Moreover, *Swift* '585 fails to teach or suggest "formatting the output image based upon the validity," as further required by independent claims 1 and 16.

B. Inherent Teaching of Swift '585

Applicants refers to *MPEP* §2112(IV) for the requirements of showing inherency. In particular, the *MPEP* provides:

> To establish inherency, the extrinsic evidence must make clear that the **missing descriptive matter is necessarily present in the thing described in the reference**, and that it would be so recognized by persons

> of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

MPEP §2112(IV) (quoting *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (internal quotations omitted)) (emphasis added). Applying the above quoted rule, Applicants respectfully submit that using "a **support table matrix…to establish validity** of the converting of the input image" is not necessary present in the express disclosure of *Swift '585*. As discussed above, *Swift '585* discloses image scaling and a mechanism to increase or decrease the size at which media is displayed while preserving the stereo. There is no evidence that scaling images as disclosed in *Swift '585* necessarily involves establishing the validity of converting of the input image or necessarily requires the use of a support table matrix. Accordingly, Applicants respectfully submit that *Swift '585* does not teach or suggest each and every element required by claims 1 and 16, and request the withdrawal of the rejections made under 35 U.S.C. § 102(e).

II. Rejections under 35 U.S.C. § 103

Independent claim 13 stands rejected under 35 U.S.C. § 103 for being unpatentable over *Swift '585* in view of U.S. Patent No. 6,556,236 ("*Swift '236*"). Independent claim 13 recites a device for converting an input image having a first format to an output image having a second stereoscopic format including, in part, "a software-enabled matrix that sets forth predefined relationships between one format for image input and a different format for image output ***to establish validity of the converting of the input image*** *to the output image for a desired display method*" and "a processor

configured to…convert the input image using the matrix ***based upon the validity*** to an output image having the second stereoscopic format," (emphasis added). The Office Action alleges that *Swift '236* discloses object mappings that establishes validity by making proper conversions, and such disclosures cure the deficiencies of *Swift '585*. Applicants, however, respectfully disagree with the characterization of the disclosures in *Swift '236*.

As discussed in Applicants' Response of March 13, 2009, *Swift '236* fails to teach or suggest use of a matrix that sets forth "validity of the converting of the input image to the output image for a desired display method," as required by independent claim 13. Although *Swift '236* may teach or suggest the use of object mappings for image format conversion, Applicants respectfully assert that *Swift '236* is completely silent with regard to establishing validity of converting of an input image to an output image for a desired display method. It is to be appreciated that establishing validity of the converting of the input images is an element that is separate and apart from merely converting images. Accordingly, Applicants respectfully assert that the combined teachings of *Swift '585* and *Swift '236* fail to establish a *prima facie* case of obviousness under 35 U.S.C. § 103.

CONCLUSION

Based on the above Amendments and remarks, Applicants respectfully assert that the pending claims are in condition for allowance and, as such, a Notice of Allowance is respectfully requested. Applicants believe that no additional fees are necessitated by this response.

The Commissioner is hereby authorized to charge any additional fees required by this response to our Deposit Account No. **13-0480** (Attorney Docket No. 95194936-044021).

Respectfully Submitted,

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